

**MAR 11 2005**

**NOT FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK**  
**U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

ARNOLD ROBLES,

Petitioner - Appellant,

v.

D.G. ADAMS, Warden,

Respondent - Appellee.

No. 04-55177

D.C. No. CV-03-01056-RT-JTL

MEMORANDUM\*

Appeal from the United States District Court  
for the Central District of California  
Robert J. Timlin, District Judge, Presiding

Submitted March 7, 2005\*\*  
Pasadena, California

Before: GRABER, CALLAHAN, Circuit Judges, and BREYER,\*\*\* District Judge.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

\*\*\* The Honorable Charles R. Breyer, United States District Judge for the Northern District of California, sitting by designation.

Petitioner Arnold Robles timely appeals the denial of his petition for habeas corpus under 28 U.S.C. § 2254. We review de novo. Paulino v. Castro, 371 F.3d 1083, 1085 (9th Cir. 2004).

There was no violation of the prosecutor's duty under Brady v. Maryland, 373 U.S. 83 (1963), and hence no due process violation. Saunders' alleged statement to McDonagh that he saw the murder was in no sense exculpatory because the statement does not say that someone other than Petitioner committed the crime. That omission is particularly noteworthy because Saunders knows Petitioner. Under the standards of 28 U.S.C. § 2256(d) we must affirm because the state court's decision was neither contrary to, nor involved an unreasonable application of, clearly established Supreme Court precedent, nor did the state court unreasonably determine the facts.

AFFIRMED.